

**EXHIBIT 6**

1 Stephen E. Taylor (SBN 058452)  
2 Jonathan A. Patchen (SBN 237346)  
3 TAYLOR & COMPANY LAW OFFICES, LLP  
4 One Ferry Building, Suite 355  
5 San Francisco, California 94111  
6 Telephone: (415) 788-8200  
7 Facsimile: (415) 788-8208  
8 Email: staylor@tcolaw.com  
9 Email: jpatchen@tcolaw.com  
10 Kenneth A. Gallo (*pro hac vice*)  
11 Joseph J. Simons (*pro hac vice*)  
12 Craig A. Benson (*pro hac vice*)  
13 PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP  
14 2001 K Street, NW  
15 Washington, DC 20006-1047  
16 Telephone: (202) 223-7300  
17 Facsimile: (202) 223-7420  
18 Email: kgallo@paulweiss.com  
19 Email: jsimons@paulweiss.com  
20 Email: cbenson@paulweiss.com

21 *Attorneys for Sharp Electronics Corporation and*  
22 *Sharp Electronics Manufacturing Company of America, Inc.*

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14 UNITED STATES DISTRICT COURT  
15 NORTHERN DISTRICT OF CALIFORNIA  
16 SAN FRANCISCO DIVISION

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**In Re CATHODE RAY TUBE (CRT)**  
**ANTITRUST LITIGATION**

Case No. 07-cv-5944-SC  
MDL No. 1917

This Document Relates to:

Sharp Electronics Corporation, Sharp Electronics  
Manufacturing Company of America, Inc. v. Hitachi,  
Ltd. et al., Case No. 13-cv-1173 SC.

PLAINTIFFS SHARP  
ELECTRONICS CORPORATION  
AND SHARP ELECTRONICS  
MANUFACTURING COMPANY OF  
AMERICA, INC.'S REPLY IN  
SUPPORT OF OBJECTIONS TO  
ORDER OF SPECIAL MASTER  
LEGGE STAYING DISCOVERY

DATE: None Set  
TIME: None Set  
COURTROOM: One, 17<sup>th</sup> Floor  
JUDGE: The Honorable Samuel Conti

Plaintiffs Sharp Electronics Corporation and Sharp Electronics Manufacturing Company of America, Inc. (collectively, “Sharp”) respectfully request leave to submit this reply in support of their objections to the Order of the Special Master staying discovery, to address new arguments Thomson Consumer raised in its opposition and highlight the impact of this Court’s intervening decision regarding motions to dismiss the DAP complaints, which was issued after Sharp filed its objections to the Special Master’s order.

The Special Master denied discovery based on an erroneous view of the merits of Thomson Consumer’s statute of limitations defenses—a legal conclusion that must be reviewed *de novo*. *See* Dkt. No. 302 (“The Court shall review *de novo* any conclusions of law made or recommended by the Special Master.”) (emphasis added).<sup>1</sup> In denying discovery, the Special Master concluded that Thomson Consumer’s motion to dismiss was likely to succeed and to dispose of the claims against Thomson Consumer entirely. He relied primarily on his recommendation dismissing claims against LG and Philips on statute of limitations grounds relating to withdrawal and fraudulent concealment. *See* Dkt. No. 1820, at 2 (Aug. 1, 2013). The Special Master extended this same analysis on limitations to Thomson Consumer, with little discussion. *Id.*

This Court has now rejected the Special Master’s recommendation as to LG and Philips on that point. *See* Dkt. No. 1856, at 33-35 (Aug. 21, 2013). Specifically, the Court held that the limitations issues of withdrawal and fraudulent concealment “raise factual questions inappropriate for decision at [the motion to dismiss] stage.” *Id.* at 34. The Court’s intervening ruling eliminates the only reason the Special Master had for delaying discovery.

Accordingly, contrary to the arguments Thomson Consumer makes in its opposition here, its motion to dismiss is unlikely to succeed, because of critical factual issues remaining on at least three questions.

<sup>1</sup> In the alternative, if the Court applies the abuse of discretion standard as Thomson Consumer advocates, the Special Master's legal error warrants reversal under that standard. *See Pitts v. Terrible Herbst, Inc.*, 653 F.3d 1081, 1092 (9th Cir. 2011) ("A district court abuses its discretion when it makes an error of law . . . .").

1 **Withdrawal.** Thomson Consumer’s limitations argument depends on an  
2 assumption that it withdrew from any conspiracy in 2005. Sharp, however, alleged no such  
3 thing; it alleged only that Thomson S.A. sold its CRT business at that time. As Sharp explained  
4 in its opposition to Thomson Consumer’s motion to dismiss, the mere allegation that Thomson  
5 sold its CRT business is not sufficient to establish withdrawal, because it does not establish,  
6 among other things, a lack of any lingering interest in the CRT industry. Dkt. No. 1744 at 9  
7 (June 21, 2013). And the record reflects such a lingering interest: Thomson’s parent purchased  
8 an ownership interest in the very company to which it sold its CRT assets.<sup>2</sup> Thomson Consumer  
9 attempts to distinguish LG and Philips as a “closer question” due to the proximity of the  
10 purported March 2007 withdrawal date and the four-year period predating the November 2011  
11 filing of DAP complaints. But the Court denied the motion to dismiss as to the purported  
12 withdrawals in 2001 as well as 2007. Dkt. No. 1856 at 33-35.<sup>3</sup> The Court identified several  
13 factual issues that could not be resolved, but the proximity of the purported 2007 withdrawal and  
14 the statute of limitations period was not one of them. *Id.* at 34-35.

25       <sup>2</sup> Contrary to Thomson Consumer's mischaracterizations, *see* Dkt. No. 1866 at 1, Sharp has *not*  
26       "admit[ted]" that Thomson withdrew from the conspiracy through sale of its CRT business, a  
27       point Sharp has made clear in its objections and elsewhere. Sharp's complaint alleges the fact of  
     the sale to Videocon while also alleging that "Thomson never effectively withdrew from this  
     conspiracy." *See* Sharp Compl. at ¶ 187.

<sup>28</sup> <sup>3</sup> Sharp has not waived this argument. In its opening letter to the Special Master, Sharp argued that it could replead any allegations that might be deemed deficient. *See* Dkt. No. 1766 at 4.

observing that fraudulent concealment is “fact-intensive” and “inappropriate for decision at [the motion to dismiss] stage.” Dkt. No. 1856 at 34.<sup>4</sup>

12 For these reasons, Thomson Consumer’s motion to dismiss is likely to fail, and it  
13 has not shown that Sharp is “unable to state a claim for relief.” *Huene v. U.S. Dep’t of Treasury*,  
14 *I.R.S.*, No. 11-cv-2110, 2013 WL 417747, at \*8 (E.D. Cal. Jan. 31, 2013). Sharp should not,  
15 therefore, suffer the prejudice of being prevented from proceeding with discovery for many  
16 months in the meantime.

17 | DATED: September 3, 2013 By: /s/ *Craig A. Benson*

Stephen E. Taylor (SBN 058452)  
Jonathan A. Patchen (SBN 237346)  
TAYLOR & COMPANY LAW OFFICES, LLP  
One Ferry Building, Suite 355  
San Francisco, California 94111  
Telephone: (415) 788-8200  
Facsimile: (415) 788-8208  
Email: staylor@tcolaw.com  
Email: jpatchen@tcolaw.com

Kenneth A. Gallo (*pro hac vice*)  
Joseph J. Simons (*pro hac vice*)  
Craig A. Benson (*pro hac vice*)  
PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP  
2001 K Street, NW  
Washington, DC 20006  
Telephone: (202) 223-7300

<sup>4</sup> The Court also rejected an argument, identical to Thomson Consumer's, that the DAPs were required to plead concealment conduct as to LG and Philips in particular. Dkt. No. 1856 at 34-35; *see also In re Rubber Chems. Antitrust Litig.*, 504 F. Supp. 2d 777, 788-90 (N.D. Cal. 2007).

1 Facsimile: (202) 223-7420  
2 kgallo@paulweiss.com  
3 jsimons@paulweiss.com  
4 cbenson@paulweiss.com

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Atorneys for Plaintiffs